

## §§ 762.107–762.109 [Reserved]

## § 762.110 Loan application.

(a) *Loans for \$125,000 or less.* All lenders except PLP lenders will submit the following items:

(1) A complete application for loans of \$125,000 or less must, at least, consist of:

- (i) The application form;
- (ii) Loan narrative;
- (iii) Balance sheet;
- (iv) Cash flow budget;
- (v) Credit report;
- (vi) A plan for servicing the loan.

(2) In addition to the minimum requirements, the lender will perform at least the same level of evaluation and documentation for a guaranteed loan that the lender typically performs for non-guaranteed loans of a similar type and amount.

(3) The \$125,000 threshold includes any single loan, or package of loans submitted for consideration at any one time. A lender must not split a loan into two or more parts to meet the threshold thereby avoiding additional documentation.

(4) The Agency may require lenders with a lender loss rate in excess of the rate for CLP lenders to assemble additional documentation from paragraph (b) of this section.

(b) *Loans over \$125,000.* A complete application for loans over \$50,000 will consist of the items required in paragraph (a) of this section plus the following:

- (1) Verification of income;
- (2) Verification of debts over \$1,000;
- (3) Three years financial history;
- (4) Three years of production history (for standard eligible lenders only);
- (5) Proposed loan agreements; and,
- (6) If construction or development is planned, a copy of the plans, specifications, and development schedule.

(c) *Applications from PLP lenders.* Notwithstanding paragraphs (a) and (b) of this section, a complete application for PLP lenders will consist of at least:

- (1) An application form;
- (2) A loan narrative; and
- (3) Any other items agreed to during the approval of the PLP lender's status and contained in the PLP lender agreement.

(d) *Submitting applications.* (1) All lenders must compile and maintain in

their files a complete application for each guaranteed loan. See paragraphs (a), (b), and (c) of this section.

(2) The Agency will notify CLP lenders which items to submit to the Agency.

(3) PLP lenders will submit applications in accordance with their agreement with the Agency for PLP status.

(4) CLP and PLP lenders must certify that the required items, not submitted, are in their files.

(5) The Agency may request additional information from any lender or review the lender's loan file as needed to make eligibility and approval decisions.

(e) *Incomplete applications.* If the lender does not provide the information needed to complete its application by the deadline established in an Agency request for the information, the application will be considered withdrawn by the lender.

(f) *Conflict of interest.* (1) When a lender submits the application for a guaranteed loan, the lender will inform the Agency in writing of any relationship which may cause an actual or potential conflict of interest.

(2) Relationships include:

(i) The lender or its officers, directors, principal stockholders (except stockholders in a Farm Credit System institution that have stock requirements to obtain a loan), or other principal owners having a financial interest (other than lending relationships in the normal course of business) in the loan applicant or borrower.

(ii) The loan applicant or borrower, a relative of the loan applicant or borrower, anyone residing in the household of the loan applicant or borrower, any officer, director, stockholder or other owner of the loan applicant or borrower holds any stock or other evidence of ownership in the lender.

(iii) The loan applicant or borrower, a relative of the loan applicant or borrower, or anyone residing in the household of the loan applicant or borrower is an Agency employee.

(iv) The officers, directors, principal stockholders (except stockholders in a Farm Credit System institution that have stock requirements to obtain a loan), or other principal owners of the

lender have substantial business dealings (other than in the normal course of business) with the loan applicant or borrower.

(v) The lender or its officers, directors, principal stockholders, or other principal owners have substantial business dealings with an Agency employee.

(3) The lender must furnish additional information to the Agency upon request.

(4) The Agency will not approve the application until the lender develops acceptable safeguards to control any actual or potential conflicts of interest.

[64 FR 7378, Feb. 12, 1999, as amended at 68 FR 7695, Feb. 18, 2003]

**§§ 762.111-762.119 [Reserved]**

**§ 762.120 Loan applicant eligibility.**

Loan applicants must meet all of the following requirements to be eligible for a guaranteed OL or a guaranteed FO:

(a) *Agency loss.* The loan applicant, and anyone who will execute the promissory note, have not caused the Agency a loss by receiving debt forgiveness on more than three occasions on or prior to April 4, 1996, or on any occasion after April 4, 1996, on all or a portion of any direct or guaranteed loan made under the authority of the CONACT by debt write-down, write-off, compromise under the provisions of section 331 of the CONACT, adjustment, reduction, charge-off, or discharge in bankruptcy or through any payment of a guaranteed loss claim under the same circumstances. Notwithstanding the preceding sentence, applicants who receive a write-down under section 353 of the CONACT, or are current on payments under a confirmed bankruptcy reorganization plan, may receive direct and guaranteed OL loans to pay annual farm and ranch operating expenses, which include family subsistence, if the applicant meets all other requirements for the loan.

(b) *Delinquent Federal debt.* The loan applicant, and anyone who will execute the promissory note, is not delinquent on any Federal debt, other than a debt under the Internal Revenue Code of

1986. (Any debt under the Internal Revenue Code of 1986 may be considered by the lender in determining cash flow and creditworthiness.)

(c) *Outstanding judgments.* The loan applicant, and anyone who will execute the promissory note, have no outstanding unpaid judgment obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.

(d) *Citizenship.* (1) The applicant must be a citizen of the United States, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. For an entity applicant, the majority interest of the entity must be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws.

(2) United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

(e) *Legal capacity.* The loan applicant and all borrowers on the loan must possess the legal capacity to incur the obligations of the loan.

(f) *False or misleading information.* The loan applicant, in past dealings with the Agency, must not have provided the Agency with false or misleading documents or statements.

(g) *Credit history.* (1) The individual or entity loan applicant and all entity members must have acceptable credit history demonstrated by debt repayment.

(2) A history of failures to repay past debts as they came due when the ability to repay was within their control will demonstrate unacceptable credit history.

(3) Unacceptable credit history will not include:

(i) Isolated instances of late payments which do not represent a pattern and were clearly beyond their control; or,

(ii) Lack of credit history.